

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

MAXWELL KADEL, *et al.*,

Plaintiffs,

v.

DALE FOLWELL, *et al.*,

Defendants.

No. 1:19-cv-00272-LCB-LPA

UNOPPOSED MOTION TO EXTEND DISCOVERY DEADLINES

Pursuant to Federal Rule of Civil Procedure 16(b)(4) and Local Civil Rule 26.1(d), and for the reasons discussed below, Plaintiffs, through undersigned counsel, respectfully request that this Court extend the deadline for completion of discovery in this case by approximately 90 days. The requested extension would move the date for completion of discovery in this case to August 31, 2021 (a 92-day extension) and would make corresponding changes to the deadlines for the parties' expert reports and completion of fact and expert depositions. Plaintiffs' counsel has consulted with Defendants' counsel regarding this request, and Defendants consent to the extension.

In support of this motion, Plaintiffs state as follows:

Rule 16(b)(4) states that a scheduling order may be modified upon a showing of good cause. In addition, Local Rule 26.1(d) allows the time for discovery to be extended "upon a showing that the parties have diligently pursued discovery." Here, the parties have diligently pursued discovery. Specifically, Plaintiffs have issued discovery requests, including document requests, to the Defendants. Plaintiffs have also retained expert witnesses and have been working

diligently with those experts. The parties also participated in a mediated settlement conference on December 11, 2020 and remain engaged in settlement discussions.

Despite Plaintiffs' diligence, they cannot reasonably meet the discovery deadlines in this case. Although Defendants Dale Folwell and Dee Jones have produced 120,000 pages of responsive documents to the Plaintiffs, additional material remains to be provided. The University Defendants have responded to Plaintiffs' discovery requests, but due to delays related to the creation of a protective order, University Defendants have not yet provided responsive documents to Plaintiffs.

Under the scheduling order (*see* ECF No. 61, adopted by the Court by text order August 13, 2020), Plaintiffs must disclose expert reports to Defendants by March 1, 2021. Given the current status of production, Plaintiffs may be required to designate experts or secure information for additional issues. The process for securing and designating an expert on some of the particular issues in this case is such that, even if Plaintiffs received all remaining discovery today, Plaintiffs would not be able to secure and designate additional experts, let alone produce an expert report, by March 1.

Additionally, the parties have not yet received a ruling on Plaintiffs' motion for leave to file an amended complaint (ECF No. 62). If granted, the amended complaint would add to the case a new plaintiff, a new state agency defendant, and a new claim under Title VII. The decision on Plaintiffs' pending motion for leave to file an amended complaint will affect the content of at least one expert's report. Additionally, because that potential plaintiff is not a party to the protective order, Plaintiffs are unable to produce key documents from her to Defendants.

Given the parties' diligence thus far and these remaining hurdles, good cause exists to extend the deadlines for discovery. For these reasons, Plaintiffs respectfully request that the

Court enter an order extending the deadlines for discovery in this matter by approximately 90 days, as reflected in the accompanying proposed order.

Dated: February 17, 2021

Respectfully submitted,

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*Appearing by special appearance pursuant to
L.R. 83.1(d)

CERTIFICATE OF SERVICE

I hereby certify that on February 17, 2021, the foregoing document was filed electronically with the Clerk of Court using the CM/ECF electronic filing system which will send notification of such filing to all registered users.

/s/ Amy E. Richardson
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Counsel for Plaintiffs